

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Leroy K. Smalls,

Plaintiff,

v.

Bryan Stirling, Dennis Patterson, Curtis Early,
Clayton Holbrook,

Defendants.

C/A No.: 9:24-cv-03966-SAL

ORDER

Plaintiff Leroy K. Smalls, proceeding *pro se*, filed this action under 42 U.S.C. § 1983 challenging various aspects of his placement in the Restrictive Housing Unit at Perry Correctional Institution.

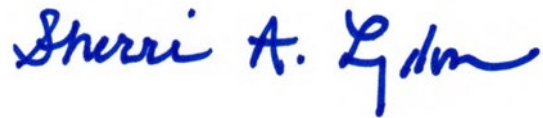
This matter is before the court on the magistrate judge's Report and Recommendation (the "Report"), made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). The Report recommends that Plaintiff's Motion for a Temporary Restraining Order, ECF No. 5, and Motion for Default Judgment, ECF No. 9, be denied. *See* ECF No. 12. The Report recommends denial of the former because of Plaintiff's failure to comply with several requirements of Rule 65 of the Federal Rules of Civil Procedure. *Id.* at 2–3. It recommends denial of the latter because there is no proof of service in the record and, to be sure, service has not yet been authorized. *Id.* at 3. Plaintiff did not file objections to the Report, and the time for doing so has expired.

The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to,

and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After reviewing the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 12, and incorporates it by reference herein. As a result, Plaintiff’s Motion for a Temporary Restraining Order, ECF No. 5, and Motion for Default Judgment, ECF No. 9, are **DENIED**. This action remains committed to the magistrate judge for further preliminary matters.

IT IS SO ORDERED.



December 13, 2024
Columbia, South Carolina

Sherri A. Lydon
United States District Judge